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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/031,863 | 05/06/2002 | Olle Olsson | | 8537 |

7590 06/02/2003
Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

EXAMINER

KERSHTEYN, IGOR

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3745

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DATE MAILED: 06/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,863

Applicant(s)

OLSSON, OLLE

Examiner

Igor Kershteyn

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities:

In line 3, "part" should be --parts--,

In line 6, "part" should be --parts--.

Claims 2 and 3 are objected to because they include reference characters, which are not enclosed within parentheses:

In claim 2, line 2, "3" should be enclosed within parentheses,

In claim 3, line 3, "8" should be enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

Claim 11 is objected to because it recites the limitation "the transmission" in line

1. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 is objected to because it recites the limitation "the transmission" in line

1. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 1, the phrase "such elements" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "such elements"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).

Claims 2-12 are indefinite by virtue of their dependency on claim1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 8, 9, 11, and 12, as far as they are definite, are rejected under 35 U.S.C. 102(b) as being anticipated by Meyer (2,324,635).

In figures 2 and 3, Meyer teaches an operating device 1 including a driving device 45, at least one closed house 25, a first piston-like part 34 and a second piston-like part 26, which parts are displaceable inside the house 25, where the first 34 and the second 26 piston-like parts are arranged at a distance from each other inside the house 25, where the driving device 45 is arranged to displace the first piston-like part 34 inside

the house 25 and the second piston-like part 26 being connected to a operable element 12 characterized in that a volume (best shown in figure 2) formed in the house 25 between the first 34 and the second 26 piston-like parts, is filled with a compressive force transmitting medium.

Note. In the preamble of claim 1 the phrase "for doors, gates, and such elements" is considered by the Examiner as an intended use.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 4-12, as far as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over Current et al. (5,513,467) in view of Manini (3,815, 361)

In figures 1-3, Current et al. teach an operating device 10 including a driving device 52, at least one closed house 34, a first piston-like part 72 and a second piston-like part 106, which parts are displaceable inside the house 34, where the first 72 and the second 106 piston-like parts are arranged at a distance from each other inside the house 34, where the driving device 52 is arranged to displace the first piston-like part 72 inside the house 34 and the second piston-like part 106 being connected to a operable element 28.

Current et al. don't teach a volume formed in the house between the first and the second piston-like parts filled with a compressive force transmitting medium.

Manini figure 1 teaches an operating device for doors with the use of hydraulic medium for displacing the piston 48.

Since Current et al. and Manini are analogous art because they are from the same field of endeavor, that is the door operating devices art, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the door operating device of Current et al. with the use of hydraulic medium for transmitting force to the second piston as taught by Manini for the purpose of reducing high frictional losses.

Prior Art

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consist of two patents.

Carlson (2,739,808) is cited to show an operating device for doors having an electrical motor, piston pump and actuator 46, but fails to teach a piston actuator and a common housing arrangement.

Huber (6,220,029) is cited to show an operating device for automotive trunk lids, folding tops and the like, having an electric motor, piston pump, and a piston actuator, but fails to teach a common housing arrangement.

Allowable Subject Matter

Claims 2 and 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kershteyn whose telephone number is (703) 308 8317. The examiner can be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached on (703) 308 1044. The fax number is (703) 305 3588.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 0861.

IK
May 20, 2003



Igor Kershteyn
Patent examiner.
Art Unit 3745



EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
GROUP 3700

5/30/03